

ADRANH ERNAY, ADRIAN ERNAY,	:	CIVIL ACTION
WENDELL WESLEY, OTIS RAGLAND,	:	
LINDA FAUST, WILLIAM CHRISTY, A	:	
Minor By and Through His Natural Parent	:	
Guardian Linda Faust, DENASIA	:	NO. 10-1035
CHRISTY, A Minor By and Through Her	:	
Natural Parent and Guardian Linda Faust	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
CHRIS SWATSKI, JOHN DOE #1	:	
THROUGH #6	:	
Defendants.	:	
	:	

AND NOW, this 23rd day of June, 2010, upon consideration of Defendant Chris Swatski's Motion To Dismiss In Part (Document No. 2, filed April 7, 2010); and Plaintiffs' Reply To Defendant Swatski's Motion To Dismiss In Part (Document No. 3, filed April 21, 2010), **IT IS ORDERED** that defendant Swatski's Motion To Dismiss In Part is **GRANTED IN PART AND DENIED IN PART**, as follows:

b. The part of defendant's motion which seeks a dismissal of claims asserted by minor plaintiffs William Christy and Denasia Christy in Count One of the Complaint is **GRANTED**

WITHOUT PREJUDICE to plaintiffs' right to file an Amended Complaint within twenty days if warranted by the facts;

c. The part of defendant's motion which seeks a dismissal of plaintiffs' state law claim is **MARKED WITHDRAWN** by agreement of the parties; and

d. The part of defendant's motion which seeks a dismissal of the excessive force claim in Count Three is **DENIED WITHOUT PREJUDICE** to defendant's right to assert the defense of qualified immunity, and any other appropriate defense, after relevant discovery by summary judgment motion and/or at trial.

IT IS FURTHER ORDERED that a scheduling conference shall be conducted in due course;

IT IS FURTHER ORDERED that the caption of this case shall be amended to delete reference to plaintiffs William Christy and Denasia Christy.

BY THE COURT:

/s/ Hon. Jan E. DuBois
JAN E. DUBOIS, J.